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In the Supreme Court of the United States

* OCTOBER TERM, 1959

LOCAL 357, INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE NATIONAL LABOR
RELATIONS BOARD

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In the Supreme Court of the United States

OCTOBER TERM, 1959

No. 825

LOCAL 357, INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD

*ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA CIRCUIT*

MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD

The question presented is whether the Board properly concluded that an agreement between a union and an employer which delegated to the union exclusive control over clearing applicants for employment violates Sections 8(a)(3) and 8(b)(2) of the National Labor Relations Act, absent the incorporation of adequate safeguards which assure the applicants that clearance will be given on a non-discriminatory basis. In short, this case presents the question of the validity of the Board's so-called *Mountain Pacific* standards for hiring halls, first enunciated in the *Mountain Pacific* case (119 NLRB 883) and applied here.

The court below, with one judge dissenting, sustained the Board's unfair labor practice findings.

Its decision is in accord with that of the First Circuit in *National Labor Relations Board v. Local 176, United Brotherhood of Carpenters*, decided March 30, 1960. However, the Board's position has been rejected by the Ninth Circuit in *National Labor Relations Board v. Mountain Pacific Chapter of Associated General Contractors*, 270 F. 2d 425, and *National Labor Relations Board v. Hod Carriers*, decided February 5, 1960. And see *National Labor Relations Board v. E & B Brewing Co.*, decided April 5, 1960, 45 LRRM 3073 (C.A. 6).

In view of the conflict of decisions and the importance of the question, the Board is filing a petition for certiorari in the *Hod Carriers* case. Accordingly, the Government does not oppose the grant of the present petition.¹

Respectfully submitted,

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Solicitor General.

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April, 1960.

¹ The Board is considering whether to file a cross-petition in the case, with respect to the court's denial of the reimbursement remedy (Pet. 18).